IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT APPEAL NO : 1141 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 21/07/2004 in W.P.M.P.No.15436 of 2004 in WP NO : 12146 of 2004 on the file of the High Court.)

Between:

Y.Srikanth, s/o Y.Aagarao,
r/o College Road, Mancherial, Adilabad District.

..... APPELLANT

AND

1 State of Andhra Pradesh, rep., by its Principal Secretary to the Government, Medical and Family Welfare, E1 Department, Secretariat, Hyderabad.
2 NTR University of Health Sciences rep., by its Registrar, Vijayawada.
3 The Andhra Pradesh Medical & Dental College Managements Association (Reg.)103, Reliance Residency, Opp:NTR Stadium, Ashoknagar, Hyderabad rep., by its Secretary, C.Lakshmi Narasimha Rao.

.....RESPONDENTS

Counsel for the Appellant:MR.K.S.MURTHY

Counsel for the Respondent No.1: THE ADVOCATE GENERAL

Counsel for the Respondent No.2: SMT.Y.PADMAVATHI, Standing Counsel

Counsel for the Respondent No.3: MR. B.ADINARAYANA RAO

The Court made the following :

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Judgment: (Per Hon'ble Sri Justice B.Sudershan Reddy)

We are not inclined to issue any direction directing the 2nd respondent herein not to approve the admissions into MBBS and BDS courses to the 'C' category seats mentioned in para 6 (C) of G.O.Ms.No.184 dated 30-6-2004 in the un-aided non-minority colleges for the academic year 2004-2005.

In our considered opinion, serious questions of law arise for consideration in the writ petition which may have to be gone into preferably by a Division Bench of this Court. The question that falls for consideration is whether the Rule providing for admission in 'C' category seats on the basis of qualifying examination is arbitrary and unreasonable.

Learned counsel for the appellant Sri K.S.Murthy strenuously contended that para 6(C) of G.O.Ms.No.184 dated 30-6-2004 is in the teeth of the Judgment of the Apex Court in ***Islamic Academy of Education V. State of Karnataka***. We find merit in the submission made by the learned counsel for the appellant.

Learned Advocate General contended that the observations made by the Supreme Court in ***Islamic Academy's*** case (1 supra) is required to be understood in the background of the law declared by the Supreme Court in ***TMA Pai Foundation v. State of Karnataka***.

It was brought to our notice that the Medical Council of India has already

notified the admissions, according to which the first schedule of counseling is required to be completed by 25-7-2004. The process of admissions is going on and it may create unnecessary complications, if the whole process of admissions is to be stayed.

Having regard to the facts and circumstances of the case, we consider it appropriate to direct the NTR University of Health Sciences as well as the 3rd respondent-A.P. Medical and Dental College Managements Association to clearly notify that the admissions into 'C' category seats and the approval to be granted by the University shall be subject to further orders to be passed in the writ petition. That each of the candidate, is to be admitted into 'C' category, shall be put on notice in writing by the University as well as the 3rd respondent that their admissions shall be subject to the further orders that may be passed in the writ petition.

Having regard to the importance of the questions that falls for consideration, we consider it appropriate to direct the Registry to place the matter before the Hon'ble the Chief Justice and obtain suitable directions for posting of the writ petition on 10th August, 2004 on the top of the list subject to part heard.

In the meanwhile, the learned Advocate General undertakes to file counter-affidavit. The copy of the counter-affidavit shall be duly served upon all the counsel.

The order of the learned single Judge shall accordingly stand modified. The writ appeal is accordingly dismissed.

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B.Sudershan Reddy, J.

26th July, 2004.

K.C. Bhanu, J.

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To

1 The Principal Secretary, State of Andhra Pradesh, Medical and Family Welfare, E1 Department, Secretariat, Hyderabad.
2 The Registrar, NTR University of Health Sciences, Vijayawada.

3 The S.O., Writ Filing Section, High Court of A.P, Hyderabad.

4. 2 CCs to the learned Advocate General, High Court of A.P, Hyderabad.

5. Two CD copies.